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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
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9 JAMES KARIM MUHAMMAD,
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11 Plaintiff,

12 vs.
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14 PEOPLE OF CALIFORNIA; JEFFREY
15 STARK, as an individual and as Assistant
16 District Attorney of Alameda County; BOB
17 CONNER, as an individual and as District
18 Attorney Inspector; CYNTHIA CONEJO, as
19 an individual and as Assistant Registrar of
20 Voters Alameda County; and DOES 1-10,
21
22 Defendants.

23 Case No.: C-10-01449-YGR

24 **NOTICE OF QUESTIONS FOR**
25 **HEARING ON DEFENDANT'S MOTION**
26 **FOR SUMMARY JUDGMENT**

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28 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE NOTICE OF THE
FOLLOWING QUESTIONS FOR THE HEARING SCHEDULED ON TUESDAY, FEBRUARY 21,
2012 AT 2:00 P.M.

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30 The Court has reviewed the parties' papers and, thus, does not wish to hear the parties re-
argue matters addressed in those pleadings. If the parties intend to rely on authorities not cited in
31 their briefs, they are ORDERED to notify the Court and opposing counsel or the opposing party, if
32 proceeding *pro se*, of these authorities reasonably in advance of the hearing and to make copies
33 available at the hearing. If the parties submit such additional authorities, they are ORDERED to
34 submit the citations to the authorities only, with reference to pin cites and without argument or
35 additional briefing. *Cf.* Civil L. R. 7-3(d). The parties will be given the opportunity at oral argument

1 to explain their reliance on such authority. The Court suggests that associates or of counsel attorneys
2 who are working on this case be permitted to address some or all of the Court's questions contained
3 herein.
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5 In the Tenth Count, Plaintiff James Karim Muhammad alleges that Defendant Bob Conner
6 failed to "knock and announce" his presence prior to entering Plaintiff's residence in violation of
7 California Penal Code section 844. Conner argues that this claim is barred because Mr. Muhammad
8 did not comply with the California Tort Claims Act, which requires that Mr. Muhammad first present
9 the claim for damages to the governmental entity, here, the Office of the Clerk to the Board of
10 Supervisors for Alameda County. Cal. Gov. Code §§ 911.2, 950.2. With respect to this Count:
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- 12 1) Mr. Muhammad does not allege in his complaint that he complied with the claims presentation
13 statutes, California Government Code sections 911.2 and 950.2, and Conner has submitted the
14 declaration of an employee who searched County records and determined that Plaintiff never
15 presented any claim to the County. Does Mr. Muhammad dispute that he did not present a
16 claim to the County prior to filing this lawsuit, and if so, what proof does Mr. Muhammad
17 have that he presented a claim to the County?
- 18 2) Can a state law immunity statute prevent Mr. Muhammad from bringing a federal civil rights
19 cause of action because, even though he could have pled these facts as a violation of the
20 Fourth Amendment prohibition against unreasonable searches, Mr. Muhammad alleged a
21 violation of state law? If so, should the Court liberally construe Mr. Muhammad's complaint,
22 filed *pro se*, so as to include a federal constitutional claim? What legal authority supports the
23 party's position?

24 **IT IS SO ORDERED.**

25 Dated: February 15, 2012



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE